

REMARKS

Favorable reconsideration and allowance of the present application are requested in view of the following remarks.

Claims 1-16 were pending prior to the Office Action. Of these, claims 8-12 and 14-16 have been withdrawn from consideration. Through this Reply, claims 17-20 have been added. Therefore, claims 1-20 are pending. Of the considered claims, claims 1 and 13 are independent.

OBJECTION TO THE TITLE

The title of the application is objected to for allegedly not being descriptive. *See Office Action, page 2.* The title has been amended to address this objection. Applicant respectfully requests that the objection to the title be withdrawn.

§ 102 REJECTION – IJIMA

Claims 1, 3, 6-7 and 13 stand rejected under 35 USC 102(e) as allegedly being anticipated by Iijima et al. (USP 6,621,524). *See Office Action, pages 3-4.* Applicant respectfully traverses.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.*

Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Iijima fails to teach or suggest each and every claimed element. More specifically, Iijima is directed toward an image pickup apparatus for imaging a subject and an image processing method suitable for clipping a desired part of an image and for composing a composite image. *See column 1, lines 36-40.* Iijima discloses that an image may be used to generate a mask pattern. *See Figures 7 and 8A-8C; column 16, line 30 – column 18, line 34.* Iijima also discloses that a cutout image starting from a through-image may be produced using the mask pattern generated. *See Figures 9 and 10A-10B; column 18, line 35 – column 19, line 54.*

In the Office Action, the Examiner indicates that as disclosed in Iijima, when a user pushes the frame button 61, the CPU 21 reads out a first cutout image along the list of cutout images and a through image and the cutout image and the through image are synthesized to create a composite image. The Examiner further indicates that the user may then judge whether the displayed cutout image is desired or not. *See Office Action page 3.* The Examiner also alleges that the cutout image is equivalent to the target image data as claimed and the through image is equivalent to the background image as claimed.

Applicant does not necessarily agree, but for the sake of argument, it is assumed that the cutout image and the through image as disclosed in Iijima

are equivalent to the target image data and the background image as claimed. Taking this assumption, the Examiner admits that it is the user who controls the selection of the combination of the cutout and the through images based on some desirability factor. It is noted that Iijima is completely silent regarding any other forms of selection.

Then it is clear that Iijima cannot be relied upon to teach or suggest the feature of "selecting a synthesis target image data ... based upon a photographic condition prevailing at the time the background image was photographed" as recited in independent claims 1 and 13.

Independent claims 1 and 13 also recite "storing data representing a plurality of synthesis target images of a foreground subject obtained by photography under different photographic conditions." *Emphasis added.* In other words, a same subject, for example, a person, is photographed a plurality of times under different photographic conditions and stored.

In Iijima as disclosed, each cutout image is an image of a different subject. There is no disclosure within Iijima to photograph the same subject under different photographic conditions. Therefore, Iijima cannot be relied upon to teach or suggest the feature of storing data representing a plurality of synthesis target images of a foreground subject obtained by photography under different photographic conditions as recited in independent claims 1 and 13.

Indeed, an advantage of the present invention is that a subject can be photographed a plurality of times under different photographic conditions (front lighting, back lighting, indoors, strobe lighting, etc.). Based on the photographic condition that prevails, when the background is photographed, a particular subject image whose image characteristics are close to those of the background image can be combined so that the composite image appears more natural. It is clear that Iijima cannot be relied upon to teach or suggest such an advantage.

For the reasons stated above, independent claims 1 and 13 are distinguishable over Iijima. Claims 3 and 6-7 depend from independent claim 1 directly or indirectly. Therefore, these dependent claims are also distinguishable over Iijima.

Applicant respectfully requests that the rejection of claims 1, 3, 6-7 and 13 based on Iijima be withdrawn.

§ 103 REJECTION – IJIMA

Claims 4 and 5 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Iijima. *See Office Action pages 5 and 6.* Applicant respectfully traverses.

It has been shown above that independent claim 1 is distinguishable over Iijima. Claims 4 and 5 depend from independent claim 1 directly or indirectly.

Therefore, for at least the reasons stated above with respect to independent claim 1, these dependent claims are also distinguishable over Iijima.

Applicant respectfully requests that the rejection of claims 4 and 5 based on Iijima be withdrawn.

§ 103 REJECTION – IIJIMA, BLANK

Claim 2 stands rejected under 35 USC 103(a) as allegedly being unpatentable over Iijima in view of Blank (USP 5,345,313). *See Office Action pages 7 and 8.* Applicant respectfully traverses.

Claim 2 depends from independent claim 1 and it has been shown above that independent claim 1 is distinguishable over Iijima. Blank has not been and indeed cannot be relied upon to correct for at least the above-noted deficiencies of Iijima. Therefore, independent claim 1 is distinguishable over the combination of Iijima and Blank.

Due to the dependency thereon to independent claim 1, claim 2 is also distinguishable over the combination of Iijima and Blank for at least the reasons stated above with respect to independent claim 1. Applicant respectfully requests that the rejection of claim 2 based on Iijima and Blank be withdrawn.

NEW CLAIMS

Through this Reply, claims 17-20 have been added. All new claims are believed to be distinguishable over the cited references, individually or in any combination. Applicant respectfully requests that the new claims be allowed.

CONCLUSION

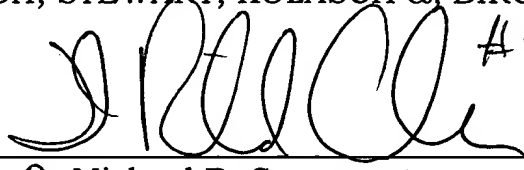
All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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